

REGISTERED NUMBER:	5/2020/1289
APPLICANT:	Mr Keith Hadley KFH Property Ltd
PROPOSAL:	Outline application (access, landscaping, layout and scale sought) for five detached three bedroom self-build/custom build dwellings following demolition of all existing buildings
SITE:	The Cherry Trees Indian Restaurant 261 Lower Luton Road Wheathampstead Hertfordshire AL4 8HW
APPLICATION VALID DATE:	16/07/2020
HISTORIC BUILDING GRADE:	N/A
CONSERVATION AREA:	N/A
DISTRICT PLAN REVIEW:	Metropolitan Green Belt
WARD	Wheathampstead

RECOMMENDATION	REFUSE PLANNING PERMISSION
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1. Reasons for Call in to Committee

- 1.1. The application was called in by Councillor Gill Clark if officers are minded to grant for the following reasons:
- 1.2. *The proposal would cause harm to the openness of the Metropolitan Green Belt and could therefore be considered inappropriate development. It could also be considered that there are no acceptable considerations to outweigh the harm of such a development. The development would not comply with Policy 1 and 13 of the St Albans District Local Plan and the National Planning Policy Framework 2019.*
- 1.3. *Exit from the proposed site is suggested to be on the Lower Luton Road at a point that is considered dangerous. Elements of Policy 34 would apply.*
- 1.4. The application was called in by Councillor Gill Clark if officers are minded to refuse for the following reasons:
- 1.5. *It could be said that with the removal of all current structures on site, the replacements would result in only a small addition to the recommended addition of 40% in the Green Belt. The proposal could well be acceptable according to Policy 1 and elements of Policy 13 of the St Albans District Local Plan 1994 and the National Planning Policy Framework 2019.*

2. **Relevant Planning History**

- 2.1. 5/2020/0478 – Permission in Principle – Construction of five dwellings. Refused for the following reason:

The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in

national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. There are no other considerations evident to clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the green belt and would be contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019. As such, the principle of the proposed development, for five residential dwellings, is unacceptable in terms of location, land use and amount of development, when assessed against national and local planning policy.

Appeal under consideration.

- 2.2. 5/2019/0975 (relating to part of the site only) – Permission in Principle – Construction of one dwelling. Refused for the following reason:

The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. There are no other considerations evident to clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the green belt and would be contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019. As such, the principle of the proposed development, for one residential dwelling, is unacceptable in terms of location, land use and amount of development, when assessed against the applicable national and local planning policy.

Appeal dismissed.

- 2.3. 5/2018/2774 – Permission in Principle – Construction of five dwellings. Refused for the following reason:

The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. There are no other considerations evident to clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the green belt and would be contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2018. As such, the principle of the proposed development, for five residential dwellings, is unacceptable in terms of location, land use and amount of development, when assessed against the applicable national and local planning policy.

Appeal dismissed.

- 2.4. 5/2016/1773 - Timber shed (retrospective). Granted.

- 2.5. 5/2002/2091 – Residential development (outline). Refused for the following reason:

The site is within the Metropolitan Green Belt in the Hertfordshire County Structure Plan and St Albans District Local Plan Review 1994 wherein permission will only be given for erection of new buildings or the use of existing buildings or land for agricultural, other essential purposes appropriate to a rural area or small scale facilities for participatory sport or recreation. The proposed development is an inappropriate use within the Green Belt which is unacceptable in terms of Policy 5 of the Hertfordshire County Structure Plan and Policy 1 of the St Albans District Local Plan Review 1994. The proposed development cannot be justified in terms of the purposes specified and no exceptional circumstances are apparent in this case.

Appeal dismissed.

- 2.6. 5/1997/0445 – Alterations and extensions to public house. Granted.
- 2.7. 5/1996/1955 – Alterations and extensions to public house. Refused (contrary to MGB, size, bulk and massing).
- 2.8. 5/1992/0407 – Pergola, barbeque and childrens play area, without compliance with conditions 1 (scheme for landscaping), 2 (removal of childrens castle within 1 year) and 3 (illumination to not take place after 10pm) of permission 5/91/1062. Granted, with Condition 3 of 5/1991/1062 to remain.
- 2.9. 5/1991/1062 – Pergola, barbeque and childrens play area. Granted.

3. Site Description

- 3.1. The application site comprises of a two storey detached building (restaurant) and detached garage along the frontage, with a hardsurfaced area to the rear used as a car park. The main building has a rear conservatory and two timber sheds to the side.
- 3.2. Beyond the car park are a couple of small garages and a larger area formally used as a childrens play area in association with the main building that prior to 2000 was a public house. The remnants of animal pens, a concrete pond and posts for the children’s castle are evident.
- 3.3. The site is located close to the junction of Lower Luton Road and Cherry Tree Lane. The site and surrounding area is within the Metropolitan Green Belt, with open green belt land (used for grazing) to the west. To the south lies the River Lea, with the very rear of the site being located within flood zones 2 and 3.

4. The Proposal

- 4.1. The application seeks outline planning permission for the demolition of the existing buildings and construction of five dwellings. The application includes access, landscaping, layout and scale, with all other matters being reserved.

5. Representations

5.1. Publicity / Advertisement

Site Notice Displayed

Date 30/07/2020

Expiry Date

Date 22/08/2020

5.2. Adjoining Occupiers

5.2.1. The Cherry Trees Indian Restaurant, The Willows 2a, 3 Marshalls Heath Lane, 25 Claygate Avenue and 1, 2, 3, 4, 5, 6, 7, 8 Cherry Tree Lane were notified on 23.07.20.

5.2.2. Representations have been received with the following objections:

5.3. Summary of Representations

- object to building on the green belt land, a number of applications have already been refused and circumstances have not changed;
- no exceptional circumstances have been shown;
- the entrance is on a very busy dangerous bend adjacent to a bus stop;
- there have been numerous near misses at this junction;
- the road is even busier since the construction of a new school in Batford, cyclists and pedestrians have difficulty crossing;
- Cherry Tree Lane/Leasey Bridge Lane is used as a rat run which causes frustration as passing places are restricted;
- it sets a dangerous precedent;
- the demolition of the restaurant which has been well established will deprive the area of any retail outlet or restaurant;
- the existing restaurant building is a local landmark and well used by the local community;
- the restaurant appears a viable building and if the proprietor is no longer able to run the business this should not lead to the potential for any new restaurant business;
- the statement ignores the fact that the land adjacent to this side on either side of Cherry Tree Lane is registered common land. The public have the right to walk anywhere on common land, the Council should take this into account when considering visual impact;
- it will reduce the separation between Wheathampstead and Batford;
- the landlord has not granted a new lease for the restaurant despite them carrying out repairs;
- although the dwellings are for self build and custom build the applicant has answered market housing;
- the applicant has stated "no" to the question of whether there are existing employees;
- the applicant has not had a pre-application discussion;
- the site is not within an area allocated for housing in their published plan;
- the site is not included on the Council's brown field register, such sites normally require some form of regenerative work before development;
- the existing restaurant building is a familiar local landmark that adds to the character of the locality;
- there are views to the site all around, the land adjacent is common land;
- approving this would essential re-draw the green belt boundary;

A representation has been received in support of the application with the following comments:

- my stables and grazing border the entire site. At the stables we have suffered from security (theft), vandalism and fly tipping problems. The proposal would impose all of these by providing a 24/7 presence;
- there will be little or no effect on openness from the viewpoint of my land or from the lane;

- the proposed re-modelling of the frontage along Lower Luton Road along with the reduction in traffic exiting should improve safety;
- there is a need for more housing and it is better to reuse commercial land than green fields.

5.4 Wheathampstead Parish Council

No representations have been received.

6. Consultations:

6.1. Herts County Council – Highways

- 6.1.1. Access – The site is located on a busy classified 30mph road (B653) and changes to the drop kerb access are requested from this road and likely to be due to the demolition of the building. The site frontage lacks a footpath and the access will be shared use with pedestrians. Vehicle parking with No. 261 would no longer be required. The current access arrangement does not appear to present a significant hazard. The applicant should provide detail to any alterations to the access and land fronting the site, as for the most part, including land in front of No. 261 it is designated as highways. The applicant should arrange to obtain a highways boundary plan of this area from: Highway Boundary Plans: should a member of the public require a highway boundary plan then they should contact Jolana.duraj@hertfordshire.gov.uk. A charge is made for the supply of such plans.
- 6.1.2. The access road and parking area would most likely be private and unadopted but constructed to adoptable standards. The proposed width of 5m is considered to provide a two-way flow of traffic. The access road is a shared surface with pedestrians and if parking on the access road is expected then 5m width is considered acceptable to allow HGV's to pass.
- 6.1.3. Highway design in accordance with Hertfordshire County Council's publication "Roads in Hertfordshire – Highway Design Guide 126 (2011).
- 6.1.4. Visibility – As existing and generally acceptable and splays of 2.4m x 43m should be maintained and demonstrated on plan if possible.
- 6.1.5. Parking – off street spaces will be available on the site for both users of the proposed development. Casual parallel parking arrangements to the access road to be a minimum of 6m x 2m. Any nearby highway parking restrictions to the surrounding highway network will apply to all. Parking levels to LPA requirements.
- 6.1.6. Fire and Rescue – As part of the highway authority's assessment of this planning application highways have previously notified Herts Fire and Rescue for their observations.
- 6.1.7. According to Manual for Streets, 6.7.2, there should be a vehicle access for a pump appliance within 45m of single family houses and fire service vehicles should not have to reverse more than 20m. If a developer wishes to reduce the running carriageway width to below 3.7m the local Fire Safety Officer should be contacted.

- 6.1.8. Refuse – The maximum recommended carry distance for the residents is 30m . The collection area is also required to be within 25m of the highway and not obstructing the driveway, access or the highway. LPA to consult and agree with the refusal collection service.
- 6.1.9. Conclusion – the application for development is acceptable in a highways context. There are no highways issues associated with this proposal that are of significant concern and no objection is raised by the highway authority subject to recommended conditions and informative that the applicant is required to carry out.
- 6.2. Environmental Compliance
- 6.2.1. No comments to make on this application.
- 6.3. Recycling and Waste
- 6.3.1. No objection. The layout of the road is acceptable for collection vehicles to manoeuvre.
- 6.4. Ecology
- 6.4.1. Bats – The site is close to the River Lea, “Castle Farm Woodland by River Lea” Local Wildlife Site and Marshalls Heath LNR. These areas will provide high quality foraging and commuting habitat for bats. There are records of bats from the vicinity. Given the style of the buildings, the suitability of the surrounding environment for bats, and the proposed demolition of the buildings, I consider there is sufficient likelihood of bats being present and affected for the LPA to require a formal bat survey.
- 6.4.2. This should be a Preliminary Roost Assessment (PRA) undertaken by an appropriately qualified and experienced ecologist to evaluate whether bats, or evidence of them, are present and will be affected by the proposals. Such surveys can be undertaken at any time of year but should follow established best practice as described in the Bat Conservation Trust Good Practice Guidelines, 3rd edition, 2016.
- 6.4.3. As bats are classified as European Protected Species (EPS), sufficient information is required to be submitted to the LPA prior to determination – so it can fully consider the impact of the proposals on bats consistent with legal obligations under the Conservation of Habitats and Species Regulations 2017 (as amended). Consequently, in the event that bats or potential are found, follow-up nocturnal (dusk emergence/dawn re-entry) surveys are likely to be required which can typically only be carried out when bats are active in the summer months usually between May and August, or September if the weather remains warm. The results of any follow-up surveys should provide mitigation measures to safeguard bats if they are to be affected by the proposals. The survey report should be submitted to the LPA for written approval.
- 6.4.4. As we are now within the optimum time of year to undertake bat activity surveys, if they are recommended in the PRA, they can start now and should be completed prior to determination.
- 6.4.5. Biodiversity enhancements – I have no objection to the principle of development. However, the proposal will result in the loss of some grassland, a concrete pond

and an area of hedging which will reduce the biodiversity value of the site, which will need addressing. I am pleased to see the proposed landscaping plans include measures to compensate for some of this loss of provide potential biodiversity gain. This includes new tree planting, and an area of rough grassland set aside for biodiversity gain. However, the area of proposed rough grassland is presently a goat enclosure, and it needs to be demonstrated how the retention of this area of grassland will be managed to provide a biodiversity gain. In order for the tree planning to contribute to an overall net gain for biodiversity, species should include native trees or trees of a known wildlife benefit. Given the reduction in green space to make way for the proposed building and the sites' location adjacent to open countryside, enhancements for species, such as bat and bird boxes and gaps under fencing to allow free movement of small mammals (eg hedgehogs) and amphibians should also form part of the proposal.

6.4.6. Consequently, I advise a Landscape and Ecological Management Plan (LEMP) should be submitted for consideration to the LPA at the appropriate stage of the planning process, which describes the type and location of any proposed biodiversity measures. It should also specify species and seed mixes used for any new planting and how new habitats will be managed to sustain a biodiversity gain for the next thirty years.

6.4.7. Hedgehogs – Hertfordshire Environmental Records Centre (HERC) has records of hedgehogs in the area. Hedgehogs are protected under Schedule 6 of the Wildlife and Countryside Act 1981, which prohibits killing and trapping by certain methods. They are also a UK Priority species under the NERC Act (Sec 41) 2006. The species is therefore considered one of the UK's target species to avoid further population decline. I therefore advice an informative.

6.4.8. To conclude, there is insufficient information on bats to determine this application. Once the requested survey information has been provided I can advise the LPA as necessary.

6.5. Affinity Water

6.5.1. You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone 2 (SPZ2) corresponding to Wheathampstead Pumping Station. This is a public water supply, comprising a number of chalk abstraction boreholes, operated by Affinity Water Ltd.

6.5.2. The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbated any existing pollution. If any pollution is found at the site then the appropriate monitory and remediation methods will need to be undertaken.

6.5.3. There are potentially water mains running through or near to part of the proposed development site. If the development goes ahead as proposed, the developer will need to get in contact with our Developer Services Team to discuss asset protection or diversionary measures. This can be done through the My Developments Portal.

- 6.5.4. In this location Affinity Water will supply drinking water to the development. To apply for a new or upgraded connection, please contact our Developer Services Team by going through their My Developments Portal.
- 6.5.5. Being within a water stressed area, we would encourage the developer to consider the wider water environment by incorporating water efficient features such as rainwater harvesting, rainwater storage tanks, water butts and green roofs (as appropriate) within each dwelling/building.

6.6. Thames Water

- 6.6.1. There are public sewers crossing or close to your development. If you are planning significant work near our sewers, its important that you minimise the risk of damage. We need to check that your development doesn't limit repair or maintenance activities, or inhibit the services we provide in any other way. The applicant is advised to rear our guide.
- 6.6.2. We would expect the developer to demonstrate what measures will be undertaken to minimise groundwater discharges into the public sewer. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. Should the local planning authority be minded to approve the planning application, Thames Water would like an informative attached in regard to ground water.

6.7. Hertfordshire Constabulary – Crime Prevention

- 6.7.1. I have no serious concerns with the principle of developing a small number of new homes at this location. Should this application go forward, I reserve the right to add additional comments as more details of the intended development are revealed.

6.8. Environment Agency

- 6.8.1. We have no objections to the proposed development. It is unclear from the proposed plans whether or not the footprint of plot five is within Flood Zone 2. We therefore direct you to our Flood Risk Standing Advice.

7. Relevant Planning Policy

- 7.1. National Planning Policy Framework
- 7.2. St. Albans District Local Plan Review 1994:

POLICY 1	Metropolitan Green Belt
POLICY 34	Highways Consideration in Development Control
POLICY 39	Parking Standards, General Requirements
POLICY 40	Residential Development Parking Standards
POLICY 69	General Design and Layout
POLICY 70	Design and Layout of New Housing
POLICY 74	Landscaping and Tree Preservation
POLICY 106	Nature Conservation

7.3. Emerging St Albans City and District Local Plan 2020-2036 – Very limited weight for decision making:

POLICY S1	Spatial Strategy and Settlement Hierarchy
POLICY S3	Metropolitan Green Belt
POLICY S4	Housing Strategy and Housing Requirement/Mix
POLICY L1	Housing Size, Type, Mix and Density
POLICY L20	New Development Parking Guidance and Standards
POLICY L23	Urban Design and Layout of New Development
POLICY L24	Development Amenity Standards

7.4. Supplementary planning Guidance/Documents

7.4.1. Revised Parking Policies and Standards, 2002

7.5. Planning Policy Context

7.5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

7.5.2. The development plan is the St Albans District Local Plan Review 1994.

7.5.3. The NPPF 2019 is also a material consideration.

7.5.4. Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

7.5.4.1. For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework or taken as a whole.

7.5.5. Paragraphs 212 and 213 of the NPPF reads as follows:

The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this replacement Framework has made. This should be progressed as quickly as possible, either through a partial revision or by preparing a new plan.

7.5.6. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

7.5.7. The degree of consistency of the Local Plan policies with the framework will be referenced within the discussion section of the report where relevant.

8. Discussion

The issues for consideration in the determination of this application are the principle of development, impact on the green belt and issues relating to access, layout and scale of development.

Policy Background – Housing Land Supply

- 8.1. The Council cannot demonstrate a 5 year housing land supply as set out in the NPPF, and the absence of a 5 year supply is a material consideration that carries significant weight. The proposal would deliver five new housing units that would make a contribution to meeting identified local needs, Paragraph 11 d of the Framework states that where the policies which are most important for determining the application are out of date permission should be granted unless the application of policies that protect area of assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework.
- 8.2. Whether the proposal would result in significant and demonstrable harm that would outweigh the benefits of providing additional housing within the District will be discussed next, although it is noted that Footnote 6 beneath Paragraph 11d excludes land designated as Green Belt.

Principle

- 8.3. The application site and surrounding area is within the Metropolitan Green Belt. National guidance on Green Belts is set out in Section 13 of the NPPF. The Government attaches great importance to Green Belts, and confirms that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence.
- 8.4. Paragraph 134 of the NPPF states that Green Belt serves five purposes:
- *to check the unrestricted sprawl of large built-up areas;*
 - *to prevent neighbouring towns merging into one another;*
 - *to assist in safeguarding the countryside from encroachment;*
 - *to preserve the setting and special character of historic towns; and*
 - *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*
- 8.5. Paragraphs 143 and 144 of the NPPF states that:
- 8.6. *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances (143). When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”*

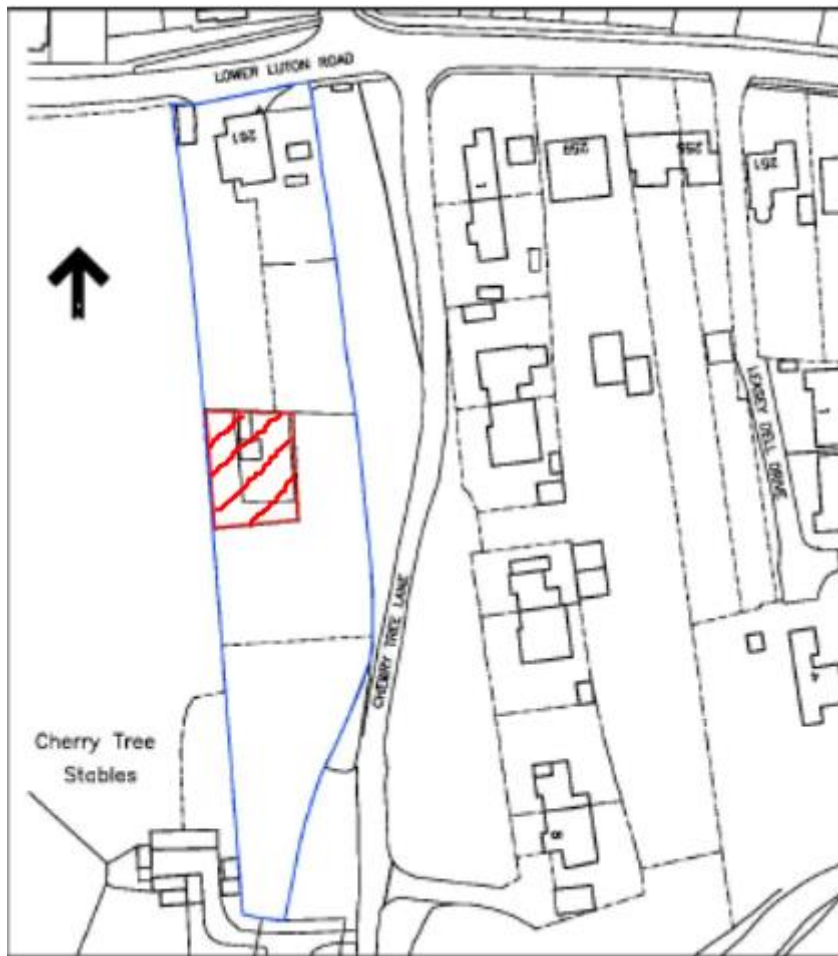
- 8.7. The construction of new buildings within Green Belts is regarded as inappropriate in Green Belt. Exceptions to this are:-
- a) Buildings for agriculture and forestry;
 - b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c) The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d) The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e) Limited infilling in villages;
 - f) Limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g) Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
- 8.8. Paragraph 146 of the NPPF also gives other forms of development that are not inappropriate in the Green Belt but none are applicable in this case.
- 8.9. Local Plan Policy 1 is in general conformity with the relevant parts of the NPPF in relation to types of development acceptable in the Green Belt.
- 8.10. When assessed against paragraph 145 of the NPPF, points a), b) and c) are not relevant to this proposal. In regard to the remainder of that paragraph:
- 8.11. d) *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces:*
- 8.12. Whilst the application proposes replacement of existing buildings on site and that part of the restaurant building is used as residential (first floor), the new buildings would be within a different use to the main use as a restaurant. The built form and use would have a far greater impact on the Metropolitan Green Belt than existing.
- 8.13. *(e) Limited infilling in villages;*
- 8.14. The site location is not within a village and the development does not represent limited infilling.

- 8.15. In consideration of application 5/18/2774, the Inspector, on this point, concluded that: *“in terms of paragraph 145(e) even if the site was judged to fall within a village, the site is largely separated from other development on this side of Lower Luton Road and, therefore, the proposal would not infill a small gap in an otherwise continuous built frontage which, in my view would be necessary, in this respect, to meet with this exception”*.
- 8.16. The Inspector that considered 5/19/0975 (for part of the site only) agreed with the statement above.
- 8.17. The Statement submitted with this application references application no. 5/2019/0208 which granted outline planning permission for a detached dwelling at land at 4 Leasey Dell Drive. The site was located between the developments on Leasey Dell Drive and Cherry Tree Lane with Willow Trees Café and Croft Farm Kennels to the south and Lower Luton Road to the north. In that case, the application provided a dwelling within a gap in a cul de sac adjoining the frontage of existing residential dwellings in Leasey Dell Drive. The development was considered to amount to infilling as it would be sited close to and within an existing group of properties and would relate well to the existing development.
- 8.18. This proposal would be largely separated from other development on this side of the lane and would not infill a small gap in an otherwise continuous built up frontage. This proposal would not therefore amount to limited infilling in a village.
- 8.19. *(f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites);*
- 8.20. The proposal does not represent limited affordable housing for local community needs under policies set out in the Local Plan.
- 8.21. *(g) Limited infilling or the partial or complete redevelopment of previously developed land (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would:*
- *not have a greater impact on the openness of the Green Belt than the existing development; or*
 - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
- 8.22. The definition of previously developed land found in the NPPF Glossary excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape; and a large proportion of the rear of the wider side appears to fall into this category. In relation to the garden area, that includes remnants of animal pens, a concrete pond and childrens play equipment, it appears not to have been used in association with the use of the “Cherry Trees”, since the opening of the building as a restaurant in January 2000.
- 8.23. In relation to previously developed land (PDL), the Inspector concluding the appeal on application No. 5/18/2774 considered that:
- “In contrast to the relatively built up frontage, the appeal site at the rear of the restaurant includes a long spacious parcel of land with a hard surfaced car park,*

some outbuildings and dilapidated structures associated with the previous use of the land as a pub garden. These, however, are limited in nature and from my observations on my site visit, the majority of the appeal site contains open and undeveloped land and as such would be excluded from the definition of Previously Developed Land as defined in Annex 2 of the Framework. However, even if my conclusion on this point was disputed, paragraph 145(g) sets out further qualifications. In this case, the existing outbuildings and structures at the rear are small scale in nature and I consider the construction of five detached dwellings on the site would have a greater impact on the openness of the Green Belt than the existing development on the site.”

8.24. Application No. 5/19/0975 proposed one dwelling on a very much reduced site area (the area around and including the small dilapidated garage/outbuildings to the rear of the car park), as shown below:

8.25.



8.26. In relation to PDL, the Inspector concluding the appeal on application No. 5/19/0975 considered that:

8.27. *“The appeal site is occupied by a garage and outbuilding and it could therefore be considered to be previously development land (PDL). Paragraph 145(g) allows for the partial or complete redevelopment of PDL in certain specific circumstances.*

As I have already found, the proposed dwelling would be materially larger than the existing single storey buildings. Even if the site is considered PDL, its redevelopment would nevertheless have a greater impact on the openness of the Green Belt than the existing development on the site due to its increased size.

- 8.28. The provision under the NPPF does not assume that the whole of the curtilage could be redeveloped and, in this regard, given the majority of the site is open, with the former pub garden having not been used as such since the opening of the restaurant and that the children's play equipment and animal pens have blended into the landscape, the whole of this site is not considered to fall within PDL.
- 8.29. In line with the NPPF, if a site were to be considered to fall within PDL, its redevelopment should not have a greater impact than the existing.
- 8.30. In this regard, an assessment of the amount of floorspace and volume to be demolished against the proposed built development can be made, although it is noted that as this application is in outline, the proposed plans include indicative floorplans and elevations only. This is shown in the table below, however this does not include the floorspace and volume of the childrens play castle given that all that stands of that structure are wooden posts that have blended into the landscape:

	Existing (to be demolished)	Proposed
Floorspace	373.11 sqm	1022.15 sqm
Volume	1073 cubic metres	2653 cubic metres

- 8.31. Given the above, the built development on site would clearly be significantly greater than what exists now and would result in a greater spread of development across the site.
- 8.32. The proposed development consisting of five detached dwellings and associated curtilages, including parking spaces would be located along a large part of the site. Although the site is well screened from Cherry Tree Lane and the adjacent grazing land by existing trees and landscaping, nevertheless the essential rural character and openness of the area would be demonstrably harmed by the construction of five dwellings in this location.
- 8.33. The proposed dwellings, by reason of their indicative size, scale and presence on land which is currently free from such substantial buildings, with the exception of the restaurant building and adjacent garage, would demonstrably and significantly harm the openness of the locality and therefore have a significantly harmful impact on the openness of the Green Belt.
- 8.34. Therefore this proposal does not comply with part (g).
- 8.35. Given the above, the proposed development represents inappropriate development in the Metropolitan Green Belt. Paragraphs 143 and 144 of the NPPF set out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 8.36. It is necessary to consider, therefore, whether there are any very special circumstances that apply in this case which are sufficient clearly to outweigh the

harm by reason of inappropriateness and in this case the applicant has put forward this development for self-build and custom housing.

- 8.37. Whilst self build and custom housing may theoretically be welcomed as it broadens housing choice, this factor in itself should not justify setting aside local and national planning policy to protect the Green Belt from inappropriate development.
- 8.38. The Council keeps a register of applicants interested in self and custom building in accordance with the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016).
- 8.39. It is important to note from the outset that a review of the register has its limitations. The register should best be viewed as reflecting people's desire to build a home. To register on it, individuals are not required to demonstrate their ability to carry out such a development. The register therefore demonstrates an aspiration to build a home that local planning authorities are obliged to plan for and positively support, consistent with recent national planning policy and therefore any analysis of the register should be carried out in this light.
- 8.40. A summary of the register as of 30 June 2020 is set out in Table 1 below:

Table 1 Number of Individual applicants on St Albans Self Build Register against permissioned plots – 1 April 2016 to 30 June 2020.

Time period	Listings on Register	Permissioned Plots 1 April to 31 March	Difference between registrations and permissioned plots
1 April to 30 Oct 2016	108	19	89
31 Oct 2016 to 30 Oct 2017	164	21	143
31 Oct 2017 to 30 Oct 2018	104	19	85
31 Oct 2018 to 30 Oct 2019	76	19	57
31 Oct 2019 to 30 June 2020	16	To be reviewed in next AMR	To be reviewed in next AMR
TOTAL	468	78	390

- 8.41. As well as 468 individual applicants currently on the register, two associations have applied too.
- 8.42. The market is at present delivering a number of sites for self build (See Table 2) Research across five districts in South West Hertfordshire including St Albans which form the housing market area carried out as part of the Local Housing Needs Assessment produced by GL Hearn (August 2020) shows a good track

record of the release of sites of interest to people with serious interest in being self builders.

Plot Browser		Plotfinder		Build Store	
Location	Units	Location	Units	Location	Units
Bushey	1	Apsley	30	Potters Bar	1
Flamstead	1	Bricket Wood	2	Potters Bar	1
Harpenden	1	Bushey	1	Rickmansworth	1
Harpenden	1	Harpenden	3	Rickmansworth	1
Harpenden	2	Hemel	2		
Hemel Hempstead	2	Little Heath	1		
Hemel Hempstead	2	Rickmansworth	1		
Shenley	1	Rickmansworth	1		
St. Albans	4	Rickmansworth	4		
		Watford	1		
		Watford	1		
		Watford	1		
Sites	9	Sites	12	Sites	4
Units	15	Units	48	Units	4

- 8.43. Data from the South West Hertfordshire area also continues to show that a number of single plots are coming forward for construction. While not advertised as self build, they are, typically the best opportunities for self build. Table 3 below shows that St Albans has seen more single plot dwellings delivered than all of its neighbours (refer Table 3).

	Dacorum	Hertsmere	St. Albans	Three Rivers	Watford
2013-14	29	17	42	25	3
2014-15	26	8	41	23	3
2015-16	32	16	43	25	3
2016-17	40	18	34	23	5
2017-18	36	46	35	22	7
Total Single	163	105	195	118	21
CIL Exemptions	115	85	0	86	18
Commitments	137	85	83	65	16

- 8.44. Nonetheless, it is not surprising that the register has so many interested individuals and that the number of plots with permission for self build or single plot releases outstrips the number of people with an interest in going on the register in St Albans. The large number of eligible applications to go on the register may reflect the fact that the district has a good quality of life and is popular to live in. Our own research shows that a good proportion of applicants do not live in the district. It is therefore important that the new draft St Albans Local Plan help address this in level of interest by delivering self build options.
- 8.45. It does so by allocating 3% of the total housing on ten of each of the broad locations to be self build (some 370 units). It is nevertheless acknowledged that the emerging Local Plan is still ongoing, and therefore the provisions of the emerging Local Plan cannot be afforded weight at this time.
- 8.46. It should also be noted that self build/custom build housing is not given as an appropriate very special circumstance to justify setting aside green belt policy in the NPPF. It is also noted that the application submission does not provide a suitable mechanism to secure the site as self-build plots. Given the harm identified above, on both this and historic applications on this site, the small provision of five

dwellings does not overcome the identified harm and does not amount to the very special circumstances that would justify an exception to policy.

- 8.47. The application also puts forwards proposals for bio-diversity improvements for the most southern end of the site. Herts Ecology have stated there is no objection to this principle however the proposal would also result in the loss of some grassland, a concrete pond and an area of hedging that would result in the reduction of biodiversity value of the site. A landscape and ecological management plan should be submitted and given the reduction in green space the proposal should also include enhancements for species such as bat and bird boxes and gaps under fencing to allow freedom of movement for small mammals and amphibians.
- 8.48. Given the discussion above, it is not considered that the biodiversity enhancements would overcome the significant harm identified above.
- 8.49. In conclusion, the development is inappropriate within this Green Belt location, would conflict with the purposes of including land within the green belt and would result in loss of openness and permanence. No very special circumstances are apparent in this case. The development is therefore contrary to Policy 1 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework. As such, the principle of the proposed development, for five residential dwellings, is unacceptable in terms of location, land use and amount of development and scale, when assessed against the applicable national and local planning policy.
- 8.50. Loss of the existing building
- 8.51. The main building used as a restaurant has been on site since at least 1891 and was used as a public house until 2000 where the use changed to a restaurant. There is no planning policy principle against demolition and the building is not included on the community asset list. Therefore there is no objection to its loss.
- 8.52. Layout and scale
- 8.53. In regard to scale and layout of the development, the above discussion in regard to impact on the green belt has assessed that the scale of development is inappropriate for this location.
- 8.54. In regard to layout, and notwithstanding the harm to the green belt identified above, the proposal would appear to be acceptable. The dwellings would be arranged in a linear pattern down the site and would be appropriately spaced.
- 8.55. Landscaping
- 8.56. The site is within the Metropolitan Green Belt, a Landscape Conservation Area and Hertfordshire Landscape Character Area 33: Upper Lea Valley, for which the strategy and guidelines for managing change are *improve and conserve*.
- 8.57. Open grazing land lies beyond the west boundary of the site and housing to the east along the east side of Cherry Tree Lane. No survey or arboriculture impact assessment has been submitted to accompany the application, but the illustrative layout indicates the retention of existing trees.

- 8.58. The site is currently well screened from the west by existing trees/hedgerow along the western site boundary and hedgerows alongside Lower Luton Road. There is also some screening from the east by existing trees mainly outside the site boundary, but there are filtered views into the site through to the existing open and mainly green garden space beyond.
- 8.59. There is existing screening by trees and other vegetation along west, south and east boundaries, scope for this to be reinforced by new tree and hedgerow planting, and trees with hedgerow indicated along the side of plot 1 facing the road frontage. This could in time screen the proposed buildings from Lower Luton Road. There may be views of the site from higher ground to the north and to the south and this needs to be assessed. A landscape and visual appraisal would be helpful however it is noted that this has not been provided.
- 8.60. The existing public house/restaurant building has an open frontage onto Lower Luton Road. The proposed development uses the existing vehicular access but sites all buildings further into the site. The route of the new access road uses, for a large part, existing hard surfaced area and built footprint. It also allows for a soft landscape strip along the western boundary with new hedge planting. Hedgerow planting along the eastern boundary (not indicated) would reinforce screening and promote biodiversity.
- 8.61. The proposed buildings are set back from Lower Luton Road, with soft landscape and tree planting along the road frontage. There is no indication of sight lines required but there appears to be space for at least several new trees and new hedgerow along the plot 1 garden boundary, providing a green frontage to Lower Luton Road. The proposed layout appears to retain all the existing trees but it is odd that an additional plot sized piece of land has been set aside between plots 3 and 4 with a centrally placed retained tree (not shown as retained on 5/2018/2774).
- 8.62. Retaining trees, hedgerow and new native/wildlife friendly planting has the potential to enhance local ecological networks, especially due to the location between the River Lea Local Wildlife Site and Marshalls Heath Local Nature Reserve.
- 8.63. Whilst the garden sizes comply with policy, the rear gardens of plots 1 – 4 would also need to accommodate new native hedgerow planting along the eastern site boundary at the rear of these properties.
- 8.64. The indicative front elevations of the dwellings are fairly modest, but the side elevations are substantial. There may be scope for adjusting the layout to allow a better spatial relationship between properties 1 – 4.
- 8.65. In conclusion, and notwithstanding the discussion above in regard to inappropriate development within the green belt and the lack of a Landscape and Visual Impact assessment, the proposed scheme is sensitive to the landscape conservation area setting and existing natural assets and would comply with Policy 74 in this regard.
- 8.66. Access
- 8.67. Herts County Council, as Highway Authority, has raised no objection to the development in regard to impact on the safety of the highway. However splays of 2.4m x 43m should be maintained and demonstrated on plan which could be secured by condition in the event of an approval.

8.68. The access road and parking area would most likely be private and unadopted but constructed to adoptable standards. The proposed width of 5m is considered acceptable and would provide a two-way flow of traffic.

8.69. The proposal therefore complies with Policy 34 of the District Plan.

8.70. Ecology

8.71. The site is close to the River Lea "Castle Farm Woodland by River Lea" Local Wildlife Site and Marshalls Heath LNR. These areas will provide high quality foraging and commuting habitat for bats and there are records of bats in the vicinity.

8.72. The application proposes demolition of the existing buildings. Given the style of the buildings and the suitability of the surrounding environment for bats there is a sufficient likelihood of bats being present and affected. A preliminary roost assessment would therefore be required and depending upon the results, follow up dusk emergence/dawn re-entry surveys would be likely to be required.

8.73. As bats are classified as European Protected Species, sufficient information is required to be submitted prior to determination so that the local planning authority can fully consider the impact of the proposals. This application was not accompanied by a preliminary roost assessment and therefore there is insufficient information for the local planning authority to consider the impact on bats, contrary to Policy 106 of the Local Plan and the NPPF.

8.74. Given the above, a preliminary roost assessment is required in relation to this application. Whilst this introduces an additional reason for refusal compared with previous decisions, those previous decisions did not include the demolition of the main "Cherry Tree" building which would potentially provide a suitable environment for roosting bats. The requirement for a PRA is therefore reasonable and necessary in this case.

8.75. Other Matters

8.76. In the event of an approval all other matters relating to the development would be assessed under a reserved matters application.

8.77. Planning Balance

8.78. As a 5 year Housing Land Supply cannot be provided the second part of paragraph 11 d of the NPPF is engaged and sets out that permission should be granted for additional housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefit of providing additional housing units, or the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. As set out in Footnote 6 to paragraph 11, such protected areas includes Green Belt sites. The site is within the Metropolitan Green Belt and the proposed development would be inappropriate development in the Green Belt as defined in national planning policy and is therefore harmful by definition. Whilst the proposal would provide five dwelling houses no very special circumstances exist that would clearly outweigh the harm identified in this case. The development is therefore contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework, 2019.

9. Reasons for Refusal

The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. There are no other considerations evident to clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the green belt and would be contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019. As such, the principle of the proposed development, for five residential dwellings, is unacceptable in terms of location, land use and amount of development, when assessed against the applicable national and local planning policy.

The application has not been accompanied by a Preliminary Bat Roost Assessment and therefore there is insufficient information for the Local Planning Authority to consider the impact of the development on bats. The development is therefore contrary to Policy 106 (Nature Conservation) and the National Planning Policy Framework, 2019.

RECOMMENDATION:	Refuse Permission	Planning	Decision Code:	R1
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10. REASONS

1. The site is located within the Metropolitan Green Belt. The proposed development would be inappropriate development in the Metropolitan Green Belt as defined in national planning policy, and is therefore harmful by definition. It would also adversely impact on the openness and character of this part of the Metropolitan Green Belt. There are no other considerations evident to clearly outweigh the significant harm identified. The proposed development would conflict with the purposes of including land within the green belt and would be contrary to Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019. As such, the principle of the proposed development, for five residential dwellings, is unacceptable in terms of location, land use and amount of development, when assessed against the applicable national and local planning policy.

2. The application has not been accompanied by a Preliminary Bat Roost Assessment and therefore there is insufficient information for the Local Planning Authority to consider the impact of the development on bats. The development is therefore contrary to Policy 106 (Nature Conservation) and the National Planning Policy Framework, 2019.

11. Informatives:

1. This determination was based on the following drawings and information: Site location plan, CT/20/08, CT/20/09, CT20/05, CT/20/04 15/07/2020, Outbuildings and play castle, restaurant, cold store and garage, bbq and garden equipment storage, CT/20/02, CT/20/01 Ireceived 15.07.2020).

2. The Local Planning Authority has been positive and proactive in its

consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Officer	Jacqui Ansell
Section 65 Parties	Herts Highways County Hall Pegs Lane Hertford
Plans on website	https://www.stalbans.gov.uk/view-and-track-planning-applications